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MAR 20 2006

OFFICE OF PETITIONS

In re Application of :
Gregory Miller :
Application No. 09/823,611 :
Filed: March 30, 2001 :
Attorney Docket No. 42390-P10732 :
Title of Invention: Method and Apparatus for :
Use of Power Switch to Control Software :

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed March 3, 2006¹ to revive the above-identified application. The petition is properly treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition filed under 37 CFR 1.181 is **Granted**.

The petition filed under 37 CFR 1.137(b) is **Dismissed as Moot**.

This above-identified application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office Action of February 6, 2004. The final Office Action set a three (3) month shortened statutory period for reply. An amendment and one month extension of time was filed on June 7, 2004. An Advisory Action was mailed on July 13, 2004 informing applicant the response filed did not place the application in condition for allowance. Accordingly, this application became abandoned on June 7, 2004. A Notice of Abandonment was mailed on March 17, 2005.

A Request for Continued Examination (RCE) and request for extension of time were

¹ Petitioner has provided a copy of the petition which was originally submitted on April 8, 2005 pursuant to USPTO Auto-Reply Facsimile Transmission .

received by the Office on July 2, 2004. This communication was matched to the serial number identified in the transmittal letter accompanying the communication, namely, serial No. 10/823,611. The communication did not timely reach the correct application (09/823,611) due to petitioner's error. As a result of this error, the application was held abandoned.

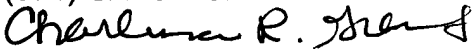
Correspondence directed to the Patent and Trademark Office concerning a previously filed application for a patent must identify the application number and filing date assigned to that application by the Office. See, 37 CFR 1.5(a). In the above-referenced application, applicant failed to correctly identify the application by citing an incorrect application number in the transmittal accompanying the correspondence. The Office elects, in this instance, to treat applicant's transposition of numbers as a correctable minor error as permitted under MPEP 502. However, applicant is reminded that minor errors, such as occurred in the instant application, are to be avoided in the future by the careful review of correspondence prior to submission to the Office.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The petition fee in the amount of \$1500.00 will be refunded to deposit account no. 02-2666. Petitioner will be charged the two month extension of time required to make the RCE timely.

This application is being forwarded to the Technology Center 2100 for further processing of the RCE and amendment submitted on June 7, 2004.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.


Charlema R. Grant
Petition Attorney
Office of Petitions